

This bill, along with S. 823, incorporated into
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91ST CONGRESS
2D SESSION

H. R. 16340

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 1970

Mrs. SULLIVAN introduced the following bill; which was referred to the Committee on Banking and Currency

A BILL

To enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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CHAPTER 1—GENERAL PROVISIONS

- Sec.
11. Short title.
12. Findings and purpose.
13. Definitions and rules of construction.
14. Effective date.

VI—O

1 **Sec. 11. Short title**

2 This Act may be cited as the Fair Credit Reporting Act.

3 **Sec. 12. Findings and purpose**

4 (a) The Congress makes the following findings:

5 (1) An elaborate mechanism has been developed for
6 investigating and evaluating the credit worthiness, credit
7 standing, credit capacity, character and general reputation
8 of individuals.

9 (2) In an economy which depends increasingly upon
10 information on individuals for the extension of credit and the
11 movement of goods and services there is a need that such
12 information be accurate and readily ascertainable.

13 (3) Consumer reporting agencies have assumed a vital
14 role in assembling and evaluating consumer credit and other
15 information on consumers and individuals.

16 (4) There is a need to insure that consumer reporting
17 agencies exercise their grave responsibilities with fairness,
18 impartiality, and a respect for the individual right to privacy.

19 (b) It is the purpose of this Act to enable persons to
20 protect themselves against the dissemination of inaccurate
21 or misleading information bearing on their credit worthiness,
22 insurability, or employability by requiring that all consumer
23 reporting agencies adopt reasonable procedures in accordance
24 with regulations prescribed by the Board of Governors of
25 the Federal Reserve System for meeting the needs of com-

1 merce for credit and other information in a manner which is
2 fair and equitable to the individual.

3 **Sec. 13. Definitions and rules of construction**

4 (a) Definitions and rules of construction set forth in
5 this section are applicable for the purposes of this Act.

6 (b) The term "person" means any individual, partner-
7 ship, corporation, trust, estate, cooperative, association.
8 government or governmental subdivision or agency, or other
9 entity.

10 (c) The term "consumer report" means any written,
11 oral, or other communication of any information bearing on
12 an individual's credit worthiness, credit standing, credit
13 capacity, character, general reputation, personal character-
14 istics, or mode of living and which is used or expected to be
15 used as a factor in establishing the individual's eligibility
16 for (1) credit or insurance to be used primarily for personal,
17 family, or household purposes; or (2) employment. The
18 term does not include any report containing information
19 solely as to transactions between the individual to which it
20 relates and the person making the report.

21 (d) The term "investigative consumer report" means
22 a consumer report or portion thereof in which information
23 on an individual's character, general reputation, personal
24 characteristics, or mode of living is obtained through per-

1 sonal interviews with neighbors, friends, or associates of the
2 individual reported on or with others with whom he is ac-
3 quainted or who have direct knowledge of his behavior.

4 (e) The term "consumer reporting agency" means any
5 person who regularly engages in whole or in part in the busi-
6 ness of preparing consumer reports, and for the purpose of
7 preparing or furnishing them uses any means or facility of
8 interstate commerce.

9 (f) The term "file" when used with reference to the
10 information held by a consumer reporting agency on an indi-
11 vidual includes all of the information on that individual in the
12 possession of the agency regardless of how the information is
13 stored.

14 (g) The term "Board", not otherwise qualified, refers
15 to the Board of Governors of the Federal Reserve System.

16 (h) Any reference to any requirement imposed under
17 this Act or any provision thereof includes reference to the
18 regulations of the Board under this Act or the provision
19 thereof in question.

20 **Sec. 14. Effective date**

21 This Act takes effect on the first day of the seventh
22 calendar month which begins after the date of enactment.

1 **CHAPTER 2—ADMINISTRATION AND**
2 **ENFORCEMENT**

Sec.

- 21. Regulations.
- 22. Administrative enforcement.
- 23. Advisory committee.
- 24. Civil liability for negligence.
- 25. Civil liability for willful noncompliance.
- 26. Civil liability for obtaining information under false pretenses.
- 27. Jurisdiction of courts; limitation of actions.
- 28. Criminal penalties.

3 **Sec. 21. Regulations**

4 The Board shall prescribe regulations to carry out the
5 purposes of this Act. These regulations may contain such
6 classifications, differentiations, or other provisions, and may
7 provide for such adjustments and exceptions, as in the judg-
8 ment of the Board are necessary or proper to effectuate
9 the purposes of this Act, to prevent circumvention or evasion
10 thereof, or to facilitate compliance therewith.

11 **Sec. 22. Administrative enforcement**

12 (a) Compliance with the requirements imposed under
13 this Act shall be enforced under

14 (1) section 8 of the Federal Deposit Insurance Act,
15 in the case of

16 (A) national banks, by the Comptroller of the
17 Currency.

1 (B) member banks of the Federal Reserve
2 System (other than national banks), by the Board.

3 (C) banks insured by the Federal Deposit In-
4 surance Corporation (other than members of the
5 Federal Reserve System), by the Board of Direc-
6 tors of the Federal Deposit Insurance Corporation.

7 (2) section 5 (d) of the Home Owners' Loan Act
8 of 1933, section 407 of the National Housing Act, and
9 sections 6 (i) and 17 of the Federal Home Loan Bank
10 Act, by the Federal Home Loan Bank Board (acting
11 directly or through the Federal Savings and Loan In-
12 surance Corporation), in the case of any institution sub-
13 ject to any of those provisions.

14 (3) the Federal Credit Union Act, by the Di-
15 rector of the Bureau of Federal Credit Unions with re-
16 spect to any Federal credit union.

17 (4) the Acts to regulate commerce, by the Inter-
18 state Commerce Commission with respect to any com-
19 mon carrier subject to those Acts.

20 (5) the Federal Aviation Act of 1958, by the
21 Civil Aeronautics Board with respect to any air carrier
22 or foreign air carrier subject to that Act.

23 (6) the Packers and Stockyards Act, 1921 (ex-
24 cept as provided in section 406 of that Act), by the
25 Secretary of Agriculture with respect to any activities
26 subject to that Act.

1 (b) For the purpose of the exercise by any agency re-
2 ferred to in subsection (a) of its powers under any Act re-
3 ferred to in that subsection, a violation of any requirement
4 imposed under this Act shall be deemed to be a violation
5 of a requirement imposed under that Act. In addition to
6 its powers under any provision of law specifically referred
7 to in subsection (a), each of the agencies referred to in that
8 subsection may exercise, for the purpose of enforcing com-
9 pliance with any requirement imposed under this Act, any
10 other authority conferred on it by law.

11 (c) Except to the extent that enforcement of the re-
12 quirements imposed under this Act is specifically committed
13 to some other Government agency under subsection (a), the
14 Federal Trade Commission shall enforce such requirements.
15 For the purpose of the exercise by the Commission of its
16 functions and powers under the Federal Trade Commission
17 Act, a violation of any requirement imposed under this Act
18 shall be deemed a violation of a requirement imposed under
19 that Act. All of the functions and powers of the Commission
20 under the Federal Trade Commission Act are available to
21 the Commission to enforce compliance by any person with
22 the requirements imposed under this Act, irrespective of
23 whether that person is engaged in commerce or meets any
24 other jurisdictional tests in the Federal Trade Commission
25 Act.

1 (d) The authority of the Board to issue regulations
2 under this Act does not impair the authority of any other
3 agency designated in this section to make rules respecting
4 its own procedures in enforcing compliance with requirements
5 imposed under this Act.

6 **Sec. 23. Advisory committee**

7 The Board shall establish an advisory committee to ad-
8 vise and consult with it in the exercise of its functions under
9 this Act. In appointing the members of the committee, the
10 Board shall seek to achieve a fair representation of the inter-
11 ests of consumers, consumer reporting agencies, and the
12 users of consumer reports. The advisory committee shall meet
13 from time to time at the call of the Board, and members
14 thereof shall be paid transportation expenses and not to ex-
15 ceed \$100 per diem.

16 **Sec. 24. Civil liability for negligence**

17 Any consumer reporting agency or user of consumer
18 reports which fails to exercise reasonable care in complying
19 with any requirement imposed upon it under this Act, and
20 whose failure to do so damages any individual, is liable to
21 that individual for the damages thereby sustained, together
22 with the costs of any action to enforce the liability. If the
23 damages result from the failure of the agency or user to
24 exercise reasonable care in the design of its procedures or
25 the supervision of its employees to assure compliance with

1 the requirements imposed under this Act, the plaintiff shall
2 in addition recover his reasonable attorneys' fees as deter-
3 mined by the court.

4 **Sec. 25. Civil liability for willful noncompliance**

5 Any consumer reporting agency or user of consumer re-
6 ports which willfully fails to comply with any requirement
7 imposed under this Act with respect to any individual is
8 liable to that individual in an amount equal to the sum of

9 (1) any actual damages sustained by the individual
10 as a result of the failure;

11 (2) such amount of punitive damages as the court
12 may allow; and

13 (3) in the case of any successful action to enforce
14 any liability under this section, the costs of the action
15 together with reasonable attorneys' fees as determined
16 by the court.

17 **Sec. 26. Civil liability for obtaining information under**
18 **false pretenses**

19 Any person who obtains information on an individual
20 from a consumer reporting agency under false pretenses is
21 liable to that individual in an amount equal to the sum of

22 (1) any actual damages sustained by the individ-
23 ual as a result of the failure;

24 (2) such amount of punitive damages as the court
25 may allow; and

1 (3) in the case of any successful action to enforce
2 any liability under this section, the costs of the action
3 together with reasonable attorneys' fees as determined
4 by the court.

5 **Sec. 27. Jurisdiction of courts; limitation of actions**

6 Any action under section 24, 25, or 26 may be brought in
7 any United States district court without regard to the amount
8 of controversy, or in any other court of competent jurisdic-
9 tion, within five years from the date of the occurrence of the
10 violation.

11 **Sec. 28. Criminal penalties.**

12 (a) Any person who obtains information on an indi-
13 vidual from a consumer reporting agency under false pre-
14 tenses shall be fined not more than \$5,000 or imprisoned not
15 more than one year, or both.

16 (b) Any officer or employee of a consumer reporting
17 agency who knowingly and willfully provides information on
18 an individual from the agency's files to a person not author-
19 ized to receive that information shall be fined not more than
20 \$5,000 or imprisoned not more than one year, or both.

21 **CHAPTER 3—ACCESS TO AND USE OF**
22 **INFORMATION**

Sec.

31. Access by individuals to their credit files.

32. Disclosure of sources.

33. Preserving confidentiality.

34. Uses of information.

35. Access by governmental agencies.

1 **Sec. 31. Access by individuals to their credit files**

2 (a) A consumer reporting agency shall permit any indi-
3 vidual to examine the information in his file and, except as
4 provided in section 32, the sources thereof, and shall provide
5 trained personnel during normal business hours and on rea-
6 sonable notice to explain the information to the individual.
7 The information shall include the names and addresses of
8 all persons to whom a consumer report has been furnished
9 on the individual for the preceding five years or since the
10 effective date of this Act, whichever period is the shortest.
11 Before making disclosure, the consumer reporting agency
12 shall require the individual to furnish full identification. The
13 individual shall be permitted to be accompanied by one other
14 person of his choosing, to read his file, and to take notes if he
15 so requests. The consumer reporting agency may make a
16 reasonable charge, not to exceed the actual cost, for such
17 disclosure, except that no charge may be made if (1) an
18 individual has been denied credit or insurance or charged
19 a higher rate for such credit insurance or denied employ-
20 ment and the credit reporting agency has been disclosed to
21 the individual under section 41 of this Act; or (2) the indi-
22 vidual has received a communication from a debt collection
23 agency affiliated with the consumer reporting agency stat-
24 ing that his credit rating may be or has been adversely
25 affected.

1 (b) No consumer reporting agency may require an indi-
2 vidual to grant immunity from legal action to the consumer
3 reporting agency or its sources of information as a condition
4 for obtaining access to his file.

5 **Sec. 32. Disclosure of sources**

6 In making the disclosures required under section 31, a
7 consumer reporting agency need not initially disclose its
8 sources of information acquired in connection with the prepa-
9 ration of an investigative consumer report, but if an indi-
10 vidual disputes any allegations made by the unidentified
11 sources and is unable to refute those allegations with evi-
12 dence sufficient to convince the consumer reporting agency to
13 expunge the allegations from the individual's file and notify
14 all previous recipients of the deletion, and if the individual
15 requests that the sources be identified so that he may better
16 counter the allegations, then the sources shall be disclosed
17 by the consumer reporting agency.

18 **Sec. 33. Preserving confidentiality**

19 A consumer reporting agency shall maintain procedures
20 designed to preserve the confidentiality of information in its
21 files. These procedures shall include limiting access to infor-
22 mation to authorized employees and maintaining training
23 programs to acquaint employees with the need for preserving
24 confidentiality. Whenever a consumer reporting agency trans-
25 mits information by telegraphic, telephonic, radio, or similar

1 means, it shall take steps to prevent unauthorized access to
2 its communications.

3 **Sec. 34. Uses of information**

4 (a) A consumer reporting agency shall maintain pro-
5 cedures designed to limit the furnishing of consumer reports
6 to those with a legitimate economic need for the information.
7 The procedures shall require that prospective users of the
8 information identify themselves, certify the purposes for
9 which the information is sought, and certify that the informa-
10 tion will be used for no other purpose. A consumer reporting
11 agency shall make a reasonable effort to verify the identity
12 of a new prospective user and the uses certified by the pro-
13 spective user prior to furnishing the user a report. No con-
14 sumer reporting agency may furnish a report to a prospective
15 user if it has reasonable grounds for believing that the report
16 will not be used for a legitimate economic need.

17 (b) For the purposes of this section, legitimate eco-
18 nomic need includes

19 (1) determining an individual's eligibility for
20 credit.

21 (2) determining an individual's eligibility for
22 insurance.

23 (3) determining an individual's eligibility for
24 employment, promotion, reassignment, or retention.

25 (4) determining an individual's eligibility for a

1 license or other benefit granted by a governmental
2 instrumentality required by law to consider an appli-
3 cant's financial responsibility or status.

4 (c) For the purposes of this section, legitimate eco-
5 nomic need does not include

6 (1) furnishing information for market research or
7 marketing purposes.

8 (2) furnishing information to a private detective
9 or a private detective agency for use in investigations
10 conducted or to be conducted by that detective agency.

11 (3) furnishing information to an attorney for use
12 in a legal matter unless the individual on whom the
13 information is furnished is a client of the attorney and
14 agrees in writing to the furnishing of the report.

15 **Sec. 35. Access by governmental agencies**

16 A consumer reporting agency may not furnish informa-
17 tion on individuals in its files, except identifying information
18 such as names, addresses, former addresses, places of em-
19 ployment, or former places of employment, to a govern-
20 mental agency for purposes other than those listed under
21 section 34 (b) unless pursuant to legal process.

1 **CHAPTER 4—OPPORTUNITY TO CORRECT**

2 **ERRORS**

Sec.

- 41. Disclosure of adverse action.
- 42. Correction of inaccurate information.
- 43. Disputed items.
- 44. Items claimed incomplete or misleading.
- 45. Disclosure of nature of information.

3 **Sec. 41. Disclosure of adverse action**

4 Any person who denies credit, insurance, or employment
5 to an individual or who increases his charge for credit or
6 insurance either wholly or partly because of the information
7 contained in a consumer report received from a consumer
8 reporting agency shall promptly notify in writing that in-
9 dividual of the action taken and that the action was due in
10 whole or in part to a consumer report. The notification shall
11 include the name and address of the consumer reporting
12 agency furnishing the report, and a notification to the indi-
13 vidual of his right of access under section 31 of this Act.

14 **Sec. 42. Correction of inaccurate information**

15 A consumer reporting agency shall afford any individual
16 a reasonable opportunity to correct any inaccurate or mis-
17 leading information in his file. Whenever an individual dis-
18 puts the accuracy of any item of information in his file, the
19 consumer reporting agency shall promptly investigate the
20 matter and if it finds that the item is in error or if it is un-
21 able to verify the item's validity, the consumer reporting
22 agency shall (1) promptly expunge the item from the indi-

1 vidual's file; (2) refrain from reporting the item on future
2 reports; and (3) promptly notify all prior recipients of the
3 item that had been reported in error and is being expunged
4 from the individual's record. This action shall be without
5 charge to the individual.

6 **Sec. 43. Disputed items**

7 If an individual disputes an item of information obtained
8 by a consumer reporting agency and if, after checking its
9 sources and making a reasonable effort to ascertain the facts,
10 the consumer reporting agency is unable to resolve any dif-
11 ference still remaining between the allegations made by its
12 sources and the individual, the consumer reporting agency
13 shall, unless the allegations made by the individual are
14 clearly frivolous, (1) plainly mark the item as disputed on
15 all subsequent reports; (2) permit the individual to file a
16 statement containing his version of the dispute; (3) send a
17 copy of this statement to all previous recipients of the dis-
18 puted item unless the individual otherwise requests; and (4)
19 include this statement in all subsequent reports. This action
20 shall be without charge to the individual other than reim-
21 bursement for postage for sending the individual's statement
22 to previous recipients of the disputed item.

23 **Sec. 44. Items claimed incomplete or misleading**

24 If an individual contends that a specific item of infor-
25 mation obtained by a consumer reporting agency is mis-

1 leading because of the omission of certain relevant facts and
2 if the consumer reporting agency is unwilling to expunge the
3 item from the individual's file and refrain from including it
4 on subsequent reports, the consumer reporting agency shall,
5 unless the additional facts are in error or are of so little rele-
6 vance that they are likely to be ignored by virtually all
7 users of the reports, (1) clearly mark the item as disputed;
8 (2) permit the individual to file a statement containing the
9 additional facts; (3) send a copy of that statement to all
10 previous recipients of the item in question if the individual
11 so requests; and (4) include the statement in all subsequent
12 reports. This action shall be without charge to the individual
13 other than reimbursement for postage for sending the indi-
14 vidual's statement to previous recipients of the item in
15 question.

16 **Sec. 45. Disclosure of nature of information**

17 Any creditor who denies consumer credit to an individ-
18 ual or who increases his charge for consumer credit either
19 wholly or partly because of information obtained from a
20 person other than a consumer reporting agency bearing upon
21 that individual's credit worthiness, credit standing, credit
22 capacity, character, general reputation, personal characteris-
23 tics, or mode of living shall promptly disclose the nature of
24 that information to the individual.

1 **CHAPTER 5—DUTY TO KEEP INFORMATION**
2 **CURRENT, ACCURATE, AND RELEVANT**

Sec.

- 51. Keeping information current.
- 52. Discarding obsolete information.
- 53. Public record information.
- 54. Relevance of information.

3 **Sec. 51. Keeping information current**

4 A consumer reporting agency shall maintain reasonable
5 procedures designed to keep its information current and up
6 to date. Whenever information that an individual's account
7 is past due or that an attempt to collect an individual's ac-
8 count has been made is regularly reported by a creditor to a
9 consumer reporting agency, the creditor shall promptly re-
10 port the disposition of the account to the consumer reporting
11 agency.

12 **Sec. 52. Discarding obsolete information**

13 (a) A consumer reporting agency shall maintain pro-
14 cedures designed to discard information in its files after it
15 has become obsolete or after the expiration of a reasonable
16 period of time. For the purposes of this section the following
17 information shall not be reported after the period so indicated
18 and shall be removed from the file as soon as practical after
19 the expiration of that period:

- 20 (1) Bankruptcies of all types may not be reported
21 for longer than fourteen years from the date of adjudi-
22 cation of the most recent bankruptcy.

1 (2) Records of accounts placed for collection and
2 records of accounts charged to profit and loss may not
3 be reported for longer than three years.

4 (3) Suits, judgments, and tax liens may not be
5 reported for longer than seven years from date of entry.

6 (4) Records of arrest, indictment, or conviction of
7 crimes may not be reported for longer than three years
8 from the date of release or parole if the offense is a mis-
9 demeanor or seven years if the offense is a felony. Such
10 items may no longer be reported if at any time it is
11 learned that in the case of a conviction a full pardon has
12 been granted, or in the case of an arrest or indictment
13 a conviction did not result.

14 (5) Derogatory information obtained pursuant to
15 an investigative credit report may not be included on sub-
16 sequent reports unless the information has been reveri-
17 fied.

18 (6) Any other adverse data not otherwise specified
19 in this section may not be reported for longer than three
20 years.

21 (b) A consumer reporting agency shall delete as soon
22 as practical any item of derogatory information from an in-
23 dividual's file whenever it is ascertained that the source of the
24 information can no longer verify the item in question.

1 Sec. 53. Public record information

2 A consumer reporting agency which compiles and reports
3 items of information on individuals which are matters of
4 public record and are likely to have an adverse effect upon an
5 individual's ability to obtain credit, insurance, or employ-
6 ment shall

7 (1) notify the individual on whom the adverse
8 public record information has been obtained that the in-
9 formation is being reported to a client of the consumer
10 reporting agency together with the name and address of
11 the client at the time such information is reported; and

12 (2) maintain strict procedures designed to insure
13 that whenever such information is reported it is complete
14 and up to date.

15 For purposes of this section, items of public record relating
16 to arrests, indictments, convictions, suits, tax liens, and out-
17 standing judgments shall not be considered up to date unless
18 the status of the public record not earlier than seven business
19 days prior to the date the report is furnished is given.

20 Sec. 54. Relevance of information

21 No consumer reporting agency may report information
22 which is not reasonably relevant to the purpose for which
23 it is sought or which constitutes an undue infringement of
24 the individual's right to privacy. The Board shall, upon re-
25 quest, determine whether the forms, questionnaires, or other

1 devices used by a consumer reporting agency for gathering
2 and reporting information are in violation of this section and
3 the regulations issued thereunder. A consumer reporting
4 agency is not in violation of this section if its forms, question-
5 naires, and similar devices have been approved by the Board.
6 The Board may, however, revoke any such approval after
7 thirty days written notice, if it finds that the information
8 being reported by a consumer reporting agency is not con-
9 sistent with the purposes of this section.

10 **CHAPTER 6—INVESTIGATIVE REPORTS**

Sec.

61. Exclusion of certain preemployment reports.

62. Disclosure by users of investigative reports.

63. Restrictions on investigative reports.

11 **Sec. 61. Exclusion of certain preemployment reports**

12 The requirements and restrictions of this chapter do not
13 apply in the case of an investigative consumer report which
14 is furnished and used solely for the purpose of assisting in
15 the evaluation of the qualifications of an individual for em-
16 ployment in or promotion to a position for which he has not
17 specifically applied.

18 **Sec. 62. Disclosure by users of investigative reports**

19 Except as provided in section 61, no person may pro-
20 cure, prepare, or furnish an investigative consumer report
21 on any individual unless, in each instance, the preparer,
22 purpose, details, and scope of the investigation are disclosed
23 in advance to the individual and his written permission is

1 obtained before the investigation is begun. Whenever the
2 information contained in an investigative consumer report is
3 transmitted on a standardized form, a blank copy of the form
4 shall be furnished the individual at the time the details and
5 scope of the investigation are disclosed.

6 **Sec. 63. Restrictions on investigative reports**

7 Except as provided in section 61, where a consumer
8 reporting agency prepares an investigative consumer report
9 for the purpose of establishing an individual's eligibility for
10 credit or insurance, no information in that report may be
11 included in a subsequent report furnished for any purpose
12 unless

13 (1) the written permission of the individual con-
14 cerned is newly obtained for the subsequent report, and

15 (2) the information has been reverified in the
16 process of preparing the subsequent report.

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91st CONGRESS
2d Session

H. R. 16340

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By Mrs. SULLIVAN

MARCH 5, 1970

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